

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

REBECCA RENEE BASS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 1:21-cv-00495-CDB (SS)

ORDER ON STIPULATION FOR AWARD  
OF ATTORNEY'S FEES PURSUANT TO  
THE EQUAL ACCESS TO JUSTICE ACT,  
28 U.S.C. § 2412(d)

(Doc. 21)

Pending before the Court is the parties' stipulated motion for award of attorney's fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d). (Doc. 21). The parties agree to an award of attorney's fees to counsel for Plaintiff Rebecca Renee Bass ("Plaintiff"), Meghan O. Lambert, Esq., in the amount of \$7,500.00 pursuant to the EAJA, 28 U.S.C. § 2412(d). *Id.*

On December 22, 2023, the Court granted Plaintiff's Motion for Summary Judgment and remanded this matter to the Commissioner for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). (Doc. 19). Judgment was entered the same day. (Doc. 20). On March 1, 2024, Plaintiff filed the pending stipulated motion for attorney fees. (Doc. 21).

Plaintiff requests an award of attorney fees and expenses as the prevailing party. *Id.*; *see Shalala v. Schaefer*, 509 U.S. 292, 300-02 (1993) (concluding that a party who prevails in a sentence-four remand order under 42 U.S.C. § 405(g) is a prevailing party). Plaintiff's request

1 is timely. *See Van v. Barnhart*, 483 F.3d 600, 607 (9th Cir. 2007).

2 The EAJA provides for an award of attorney fees to private litigants who both prevail in  
 3 civil actions (other than tort) against the United States and timely file a petition for fees. 28  
 4 U.S.C. § 2412(d)(1)(A). Under the EAJA, a court shall award attorney fees to the prevailing  
 5 party unless it finds the government’s position was “substantially justified or that special  
 6 circumstances make such an award unjust.” *Id.* Here, the government did not show its position  
 7 was substantially justified and the Court finds there are no special circumstances that would make  
 8 an award unjust. Moreover, the government does not oppose Plaintiff’s stipulated request. (Doc.  
 9 21). *See Sanchez v. Berryhill*, No. 1:16-cv-01081-SKO, 2018 WL 509817, at \*2 (E.D. Cal. Jan.  
 10 23, 2018) (finding position of the government was not substantially justified in view of the  
 11 Commissioner’s assent to remand); *Knyazhina v. Colvin*, No. 2:12-cv-2726 DAD, 2014 WL  
 12 5324302, at \*1 (E.D. Cal. Oct. 17, 2014) (same).

13 Plaintiff requests an award of \$7,500.00 in EAJA fees. (Doc. 21). The Ninth Circuit  
 14 maintains a list of the statutory maximum hourly rates authorized by the EAJA, adjusted for  
 15 increases in the cost of living, on its website. *See Thangaraja v. Gonzales*, 428 F.3d 870, 876-  
 16 77 (9th Cir. 2005). Even assuming Plaintiff’s counsel seeks the published maximum hourly rate  
 17 for 2023 (\$244.62),<sup>1</sup> the requested award would amount to approximately 31 hours of attorney  
 18 time (not accounting for any paralegal time expended). The Court has reviewed the docket and  
 19 finds this reasonable and commensurate with the number of hours an attorney reasonably would  
 20 need to have spent reviewing the certified administrative record in this case (over 1,950 pages)  
 21 and preparing a motion for summary judgment raising two issues for review regarding the ALJ’s  
 22 reliance on a vocational expert’s testimony. (Doc. 13). With respect to the results obtained,  
 23 Plaintiff’s counsel obtained a favorable judgment remanding the case for further administrative  
 24 proceedings. (Docs. 19-20).

25 EAJA fees, expenses, and costs are subject to any offsets allowed under the Treasury Offset  
 26 Program (“TOP”), as discussed in *Astrue v. Ratliff*, 560 U.S. 586 (2010). If the Commissioner

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 28 <sup>1</sup> *Statutory Maximum Rates Under the Equal Access to Justice*, available at  
<https://www.ca9.uscourts.gov/attorneys/statutory-maximum-rates/> (last visited March 4, 2024).

determines upon effectuation of this order that Plaintiff's EAJA fees are not subject to any offset allowed under the TOP, the fees shall be delivered or otherwise transmitted to Plaintiff's counsel.

Accordingly, it is HEREBY ORDERED:

1. Plaintiff's stipulated request for attorney's fees pursuant to the EAJA (Doc. 21) is GRANTED;
2. The Commissioner is directed to pay to Plaintiff as the prevailing party attorney fees in the amount of \$7,500.00 as authorized by 28 U.S.C. § 2412; and
3. Unless any offsets are applied under TOP, the government shall make payment of the fees to Plaintiff's counsel, Meghan O. Lambert of Osterhout Berger Disability Law, LLC, at 521 Cedar Way, Suite 200, Oakmont, Pennsylvania 15139, in accordance with Plaintiff's assignment of fees and subject to the terms of the stipulation.

IT IS SO ORDERED.

Dated: March 4, 2024

  
UNITED STATES MAGISTRATE JUDGE